

Commission Proposals on EU Industrial Design Reform (Intellectual Property)

POLICY BRIEF

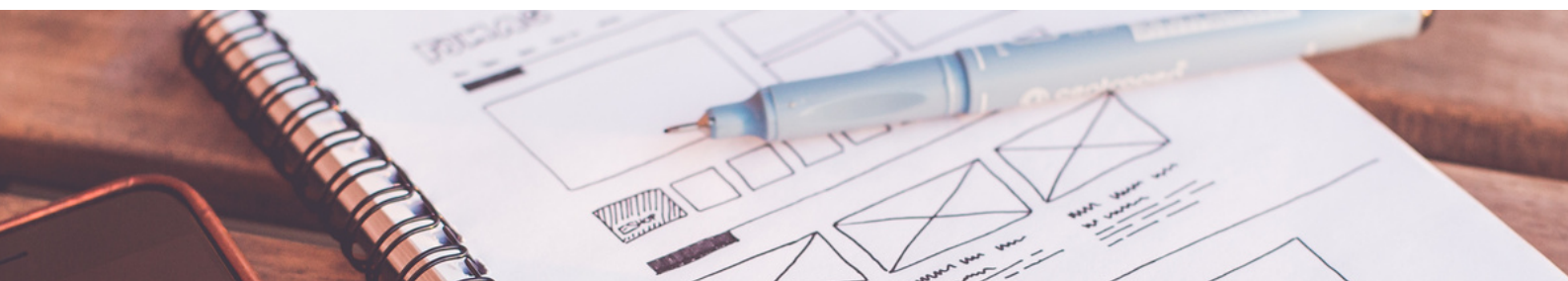
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CONTEXT

The Commission has proposed revised regulations which aim to make **protecting industrial designs** across the EU **less expensive, quicker, and more predictable**. Industrial design refers to the product's external appearance, which is determined by its lines, contours, and shape. The proposed revisions will also aim to bring the EU design framework and parallel national design rules, established and harmonised 20 years ago, up to date.

More specifically, the proposals will:

- **Simplify and streamline the procedure** for the EU-wide registration of a design.
- **Harmonise procedures** and ensure complementarity with national design systems.
- **Allow reproducing original designs for repair** purposes of complex products.



KEY PROVISIONS

Definition of design and product – *Article 3 of the Proposal for an EU Design Regulation and Article 2 of the Proposal for a revised Design Directive*

Update of the “product” definition to broaden the scope to better cover and distinguish those products visualised in a graphic, embodied in a physical object or apparent from the spatial arrangement of items to form an interior environment.

Scope of rights conferred by a registered design - *Article 19 of the Proposal for an EU Design Regulation and Article 16 of the Proposal for a revised Design Directive*

Extension of the scope of design rights to also cover new digital forms, digital graphical user interfaces or icons, in response to the increasing deployment of 3D printing technologies.

Limitation of the rights conferred – *Article 20 of the Proposal for an EU Design Regulation and Article 18 of the Proposal for a revised Design Directive*

Addition of ‘referential use’ and ‘critique and parody’ among the permissible uses of the registered rights.

Repair clause - *Paragraph (33) of the Preamble of the Proposal for a revised Design Directive, Article 20a of the Proposal for an EU Design Regulation and Article 16 of the Proposal for a revised Design Directive*

Quote from proposal text: “The purpose of design protection is to grant exclusive rights to the appearance of a product, but not a monopoly over the product as such. Protecting designs for which there is no practical alternative would lead in fact to a product monopoly. Such protection would come close to an abuse of the design protection regime. If third parties are allowed to produce and distribute spare parts, competition is maintained. If design protection is extended to spare parts, such third parties infringe those rights, competition is eliminated and the holder of the design right is de facto given a product monopoly”

Design notice – *Article 26a of the Proposal for an EU Design Regulation and Article 24 of the Proposal for a revised Design Directive*

Holders of registered designs are to be provided with a design notice permitting them to inform the public about the registration of a design.

Prior use - Paragraph 36 of the Preamble and Article 21 of the Proposal for a revised Design Directive

A right of prior use is introduced as a defence to protect those who invested in good faith in a product design before the priority date of a registered design.

Grounds for invalidity - Article 14(1)(d) of the Proposal for a revised Design Directive

Quote from proposal text: the design right shall be declared invalid if “the design is in conflict with a prior design which has been made available to the public, and which is protected from a date prior to the date of the filing of the application (...).”

The full text of the Commission Proposals may be found [here](#).

For questions or more detailed information please contact Head of Brussels Operations & EU Affairs Manager Daniel Debono and Manager - EU Policy (Sustainability) Gabriel Cassar on infobrussels@mbb.org.mt

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